

## **EXHIBIT 42**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

COMMONWEALTH OF  
MASSACHUSETTS, et al.,

Plaintiffs,

v.

NATIONAL INSTITUTES OF HEALTH,  
et al.,

Defendants.

Case No. \_\_\_\_\_

**Declaration of Kristian O'Connor**

I, Kristian O'Connor, hereby declare:

1. I am the Interim Vice Provost for Research and Dean of the Graduate School, a position I have held since 2023. As Interim Vice Provost for Research and Dean of the Graduate School, I serve as UWM's Chief Research Officer and have oversight of the Office of Research, which is responsible for the administration of research activity, oversight of research policy, and compliance with federal and state requirements. The Office of Research also provides pre- and post-award administrative support for sponsored projects. Prior to holding this position, I was the Associate Vice Provost for Research.
2. As the Interim Vice Provost for Research and Dean of the Graduate School, I have personal knowledge of the matters set forth below or have knowledge of the matters based on my review of information and records gathered by my staff.
3. I am providing this declaration to explain certain impacts of National Institutes of Health ("NIH") Notice Number NOT-OD-25-068, *Supplemental Guidance to the 2024 NIH Grants*

*Policy Statement: Indirect Cost Rates*, which purports to immediately reduce indirect costs payments to 15%.

4. The University of Wisconsin-Milwaukee (UWM) is one of Wisconsin's two Carnegie Foundation R1 (very high research activity) classified research universities. Among other research outcomes, UWM's researchers enhance quality of life by improving physical and mental health interventions, disease prevention strategies, and public health policies. Examples include understanding the effects of hormones on the neuroscience of aging, the behavioral effects of substance abuse, improving the health and quality of life for children with developmental disabilities, and the relationship between environmental toxins and children's health. This research is currently supported by approximately \$7.9 million in active awards from the NIH.
5. UWM has a Negotiated Indirect Cost Rate Agreement ("NICRA") with NIH, effective as of October 31, 2023. The Indirect Cost ("IDC") Rate in UWM's NICRA for on-campus organized research is fifty-four (54) percent.
6. NIH's reduction of UWM's IDC rate[s] will eliminate approximately \$2.4M in annual funding that UWM uses to support its research programs. The loss of these funds will immediately impact UWM's ability to draw critical funds used to pay expenses associated with facilities and services that support research, that are not reimbursed directly through grant funds. This includes but is not limited to research facilities and laboratory infrastructure, utilities, payroll for administrative and compliance support and other staff necessary to all research, and other infrastructure used to support research. UWM's ability to support its research enterprise would be significantly hampered by a reduction in a change to the negotiated indirect rate. Each UWM school, college, department, and individual

researchers cannot support the staffing and other costs necessary for these functions, and the indirect costs are essential to providing that support at UWM.

7. UWM next anticipates drawing funds on or around February 28, 2025. At that time, the reduced IDC rate will impact UWM by causing a sudden loss in revenue and the need for UWM to choose between immediately cutting needed operating functions or creating an operating deficit and impairing the university's financial position.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 9th day of February, 2025, in Milwaukee, Wisconsin.



Kristian O'Connor

Interim Vice Provost for Research and Dean  
of the Graduate School

University of Wisconsin-Milwaukee